

Claim 1 sets forth a first loading gate through which a first type of battery is loaded and a second loading gate through which a second type of battery is loaded. Both loading gates load to the same battery chamber. The Examiner acknowledges that Kodak fails to teach or suggest a second loading gate, but asserts that including a second loading gate would have been obvious to one of ordinary skill in the art. However, including a second loading gate as claimed would not have been obvious to one of ordinary skill in the art. Additionally, the Examiner's assertion that the claimed invention involves merely an obvious duplication of parts under *St. Regis Co. v. Bemis Co.*, 193 USPQ 8 is incorrect.

As stated above, claim 1 sets forth two different loading gates which load to a common battery chamber. With reference to a non-limiting embodiment of the specification, Fig. 3 shows a battery chamber 41 in which two kinds of batteries can be loaded. A separate loading gate for each of the two different types of batteries allows for different loading designs for the different batteries. There is no teaching or suggestion in the prior art for the claimed configuration of a single battery chamber with two loading gates. Additionally, the Examiner has failed to identify any motivation in the prior art that such a configuration would be desirable. Instead, the Examiner relies on conclusory assertions that the claimed configuration would have been obvious. Although the Examiner asserts that this feature is a "mere duplication" of parts, one of the basic requirements of establishing a *prima facie* case of obviousness cannot be ignored. In particular, to establish a *prima facie* case of obviousness, there must be, among other things, a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or to combine their teachings. One of ordinary skill in the art would not have been motivated to modify Kodak to

include a second loading gate, at least because Kodak loads different batteries through the single loading gate.

Additionally, the claimed invention is not merely a duplication of parts of the Kodak device, because the operation of the device changes. The claimed invention has an individual loading gate for each of two different battery types, and has arranged them so that they can use a common chamber. The loading gate is not just duplicated, a second loading gate is provided in an arrangement so that it loads to the same battery compartment as the first. Kodak fails to teach or suggest any arrangement for accomplishing this feature. Additionally, the claimed invention sets forth a first loading gate for a first type battery and a second loading gate for a second type battery. In contrast, Kodak is directed to loading different types of batteries through the same gate. The operation of the Kodak device would have to be changed in order to meet the claimed invention. Kodak would have to include a second loading gate for a second type of battery, not a second loading gate identical to the first.

Finally, even if Kodak were modified to include a second loading gate, one of ordinary skill in the art would not have been motivated to provide a second loading gate as claimed. In Kodak, there is a one-to-one correspondence of loading gates to battery chambers. Absent the teachings of the present application, there is no motivation or suggestion for a single battery chamber with two different gates. If one of ordinary skill in the art would have duplicated the parts of Kodak, they would have included two battery chambers each having a single gate, not a single battery chamber with two gates. Because there is no teaching or suggestion for two loading gates loading to a common battery chamber, the modification suggested by the Examiner

would not have been obvious to one of ordinary skill in the art and is arrived at only through improper hindsight based on the teachings of the subject application.

In view of the above arguments, claim 1 is allowable over Kodak. Claims 2 and 3 depend from claim 1 and are therefore allowable at least because of their dependency.

o Claims 4 and 5 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kodak (Kodak Easyshare DX3215 Digital Camera User's Guide) in view of Brockel et al. (U.S. Patent No. 6,459,176). Applicant respectfully traverses this rejection in view of the following arguments.

As discussed above, Kodak is deficient with respect to claim 1 at least because it fails to teach or suggest two loading gates for inserting different types of batteries to a common battery chamber. Brockel fails to correct this deficiency of Kodak. Accordingly, independent claim 1, and dependent claims 4 and 5, are allowable over the combined teachings of Kodak and Brockel.

Additionally, even if Kodak were modified to include two loading gates, one of ordinary skill in the art also would not have been motivated to combine the modified Kodak device with Brockel, and any combination would still be deficient with respect to the claimed invention. Brockel teaches a battery compartment 10 with an insert 12 which includes apertures 12'. Even if Kodak were modified to include two loading gates and the Brockel insert, the device would still not meet the claimed invention. The claimed invention sets forth a first type battery loaded through a first loading gate and a second type battery loaded through a second loading gate. The Brockel insert 12 appears to be solid and only allows insertion of batteries from one direction. Even if Kodak were modified as suggested by the Examiner, any battery that was loaded through the second gate would merely run into the solid side walls of the Brockel insert. There is no way

for batteries to be loaded through two different loading gates with the Brockel insert.

Accordingly, claims 4 and 5 are further allowable over the combination of Brockel and Kodak because even if the Kodak device were modified as suggested by the Examiner it would still be deficient.

- Claim 6 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kodak in view of Brockel. Claim 6 depends from claim 5. Claim 6 is allowable over the combined teachings of Kodak and Brockel at least because the deficiencies of the Kodak and Brockel combination discussed above would not be corrected even if the device were modified to include circular holes on the first chamber wall as suggested by the Examiner.

- Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kodak in view of Brockel as evidenced by *Handbook of Batteries* (Linden). Claim 7 depends from claim 5. Claim 7 is allowable over the combined teachings of Kodak and Brockel at least because the deficiencies of the Kodak and Brockel combination discussed above would not be corrected even if the device were modified to use perpendicular or plate-like shaped batteries as suggested by the Examiner.

### **Conclusion**

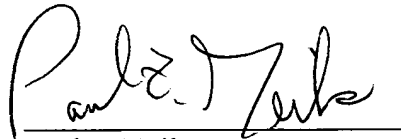
In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

RESPONSE UNDER 37 C.F.R. § 1.116  
U.S. Application No. 10/634,774

Q76594

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Paul F. Neils", written over a horizontal line.

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**23373**

CUSTOMER NUMBER

Date: July 28, 2005